IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

WP(C).No. 32159 OF 2006(C)

PETITIONER:

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1. KRISHNANKUTTY, AGED 48 YEARS,
   S/O. MALLI, MAMBULLY HOUSE, PARA P.O.,
   ELAPPULLY, PALAKKAD DISTRICT, KERALA STATE.

2. PANCHALINGAM, S/O.MUTHUSWAMY THEVAR,
   OTTAKKAL MANDAPAM, 13/40, V.P.ROAD,
   COIMBATORE-641032, TAMILNADU STATE.

BY ADV. SRI.JOBI JOSE KONDODY

RESPONDENTS:

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1. THE GEOLOGIST,
   MINING AND GEOLOGY DISTRICT OFFICE,
   MUNCIPAL BUS STAND BUILDINGS, PALAKKAD.

2. THE DISTRICT COLLECTOR,
   COLLECTORATE, PALAKKAD.

3. THE TAHSILDAR,
   PALAKKAD TALUK OFFICE, PALAKKAD DISTRICT.

4. THE VILLAGE OFFICER,
   PUDUSSERY EAST VILLAGE OFFICE,PUDUSSERY EAST P.O.,
   PALAKKAD DISTRICT.

BY GOVERNMENT PLEADER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) 32159/2006

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1	TRUE COPY OF THE QUARRYING PERMIT DATED 10.11.2006 ISSUED BY THE 1ST RESPONDENT TO THE 1ST PETITIONER.
EXT.P2	TRUE COPY OF THE STOP MEMO DATED 27.11.2006 ISSUED BY THE 4TH RESPONDENT TO THE 2ND PETITIONER.
EXT.P3	TRUE COPY OF THE PROCEEDINGS OF THE PRINCIPAL SECRETARY TO THE GOVERNMENT VIDE NO. 4692/A3/2003/ID. DATED 29.4.2004.

RESPONDENTS' EXHIBITS:

NIL.

// TRUE COPY //

P.S. TO JUDGE.

knc/-

P.R. RAMAN, J.

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W.P.(C) NO. 32159 OF 2006

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DATED THIS, THE 11TH DAY OF JANUARY, 2007

J U D G M E N T

The challenge made in this writ petition is against Ext.P2 stop memo issued by the Village Officer. By the above stop memo issued to the second petitioner, he was informed that he should stop the unauthorized mining of sand from the property in his possession in Sy. No.371/3 in Block 33 of Pudusserry East Village. Ext.P2 does not say in what manner the removal of sand is unauthorized. A statement is filed by the Junior Superintendent for and on behalf of the Collectorate. As per the statement, petitioner was permitted to quarry 1000 Metric Tonnes of ordinary sand from the property comprised in Sy. No.371/3 in Pudussery East Vuillage. But misusing the permit, he mined sand from river and Government land also and it was in such circumstances, that Ext.P2 stop memo was issued.

2. Admittedly, petitioner was granted permission to quarry ordinary sand from the land comprised in Sy. No. 371/3 in Pudussery East Village. If so, removal of sand from that property cannot be stopped. But if the petitioner is quarrying sand from the properties belonging to the

Government, certainly the Government can prevent him from such quarrying operations as respect those land. As such, on the face of the statement, the stop memo issued is without any authority at all.

3. In the circumstances, Ext.P2 is quashed. However, learned Government Pleader submits that petitioner cannot use pump set for such quarrying operations. It is undertaken by the learned counsel for the petitioner that he will not use any such pump set. I make it clear that quarrying operations will be confined for the period to which the license is issued.

4. However, it is submitted that because of the issuance of the stop memo, petitioner could not quarry the sand for the full period for which permit was granted to him and therefore he may be permitted to apply for extension of the period or for issuance of a fresh permit. It goes without saying that if the petitioner is otherwise entitled to in law, he can seek grant of such permit.

The writ petition is allowed as above.

P.R. RAMAN,
JUDGE.

knc/-